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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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HEWLETT PACKARD COMPANY  
P O BOX 272400, 3404 E. HARMONY ROAD  
INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 12/18/2007

Please find below and/or attached an Office communication concerning this application or proceeding.

**Notification of Non-Compliant Appeal Brief  
(37 CFR 41.37)**

Application No.

09/920,554

Applicant(s)

PROUDLER, GRAEME JOHN

Examiner

Zachary A. Davis

Art Unit

2137

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

The Appeal Brief filed on 18 September 2007 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.  
**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☒ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

See Continuation Sheet.

  
EMMANUEL L. MOISE  
SUPERVISORY PATENT EXAMINER

Continuation of 10. Other (including any explanation in support of the above items):

Regarding item 6 above, it was previously noted in the Notice mailed 20 August 2007 that Appellant's brief received 30 April 2007 included arguments and remarks directed to the rejection of claims under 35 U.S.C. 102(e). This issue has not been entirely addressed, as the present brief still includes arguments and remarks directed to the rejection of claims under 35 U.S.C. 102(e) (see page 22, line 21-page 25, line 26 of the present brief, in reference to Claim 24). However, the Examiner again notes that this rejection was previously withdrawn (see page 2 of the Office action mailed 12 December 2005). Further, the Examiner notes that these arguments appear under a heading indicating that Issue 1 for review on appeal is whether Claims 1-6, 14-26, 29, and 31 are unpatentable under 35 U.S.C. 103(a). 37 CFR 41.37(c)(1)(vii) requires that the argument must contain "contentions of appellant with respect to each ground of rejection PRESENTED FOR REVIEW" (emphasis added). The above-noted arguments regarding the withdrawn rejection under 35 U.S.C. 102(e) are not in reference to or with respect to a ground of rejection presented for review, and in particular are not in reference to the rejection referred to by the heading of the section in which they appear, and therefore should not be included.